

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

May 8, 2003

A meeting of the Board of Environmental Protection was held on Thursday, May 8, 2003, at the Holiday Inn / Ground Round facility in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

Board: Katharine Littlefield, John Tewhey, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Irving Faunce, Melford Pelletier, John Marsh and Ernest Hilton. Board member Nancy Ziegler arrived at approximately 10:00 a.m.

<u>Staff:</u>	<u>Bureau of Land and Water Quality</u>	Richard Green
	<u>Bureau of Land and Water Quality</u>	Mike Mullen
	<u>Bureau of Land and Water Quality</u>	Stacie Beyer

Others: Brooke Barnes, Deputy Commissioner
Peggy McCloskey, Assistant Attorney General
Cynthia S. Bertocci, Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 3:30 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Brooke Barnes, Deputy Commissioner reported the following:

Legislation:

The bills are out of committee and are in the process with the House and Senate.

Part II Budget: Commissioner Gallagher is before the Appropriations Committee dealing with our request for 2 positions to support our stormwater program. Environmental Bonds proposed for a November vote total 16.8 million dollars.

Department: David Van Wie has submitted his resignation and will serve his last day with the Department tomorrow. David helped to resolve the backlog of wastewater discharge licenses. Of the 375 wastewater discharge licenses, 64% were in backlog status when David joined the Bureau. Today our backlog is 20%, with a goal of 5% by the end of this year. This is a significant achievement.

Earth day: The Department raised \$4,100 at the earth day auction. The Department will donate half of the total auction money to the Maine Conservation Camp and the other half is used in the Department's memorial wildlife garden.

Questions of the Deputy Commissioner

Board member Tewhey suggested that the Department let the Board know in advance of the next auction so that they may participate by donating items, bidding, etc.

Chair Wardwell asked about the status of new or replacement Board members.

The nominations have not yet been posted, but are expected to be soon.

B. CHAIRMAN'S COMMENTS: Board Chair announced that Katharine Littlefield will be completing her second term in June of 2004 as opposed to 2003 as previously believed. This determination was the result of consultation with the Attorney General's Office and review of the statutory provisions governing terms for members of the Board. The Chair acknowledged the efforts of Cynthia Bertocci and the Deputy Commissioner to resolve questions regarding Board member terms.

C. EXECUTIVE ANALYST COMMENTS:

None

D. BOARD CALENDAR:

Reviewed

E. DEPARTMENTAL ORDERS:

Reviewed

F. EXECUTIVE SESSION:

None

II CONSENT AGENDA ITEMS

The Board voted (9-0-0-1) on a motion to approve consent agenda items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14) as follows:

1. BEASLEY, PRUDENCE, Dresden – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
2. LOU SILVER, INC., Alton – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
3. MORSE, LESTER, Wiscasset – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
4. MASSELLI, ARLEEN, Farmington – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
5. CRAY, DANA, Garland – Administrative Consent Agreement and Enforcement Order (BLWQ- Land)
6. FLOOD, JOHN, Acton – Administrative Consent Agreement (BLWQ-Land)
7. W & S WOOD PRODUCTS, INC., Peru – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
8. BILL'S AUTO TRANSPORT, INC., Greene – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
9. FOX, JEFFREY, Westmanland – Administrative Consent Agreement and Enforcement Order (BLWQ-Land)
10. NORCORSS, RICHARD d/b/a DICK'S AUTO BODY, Brownfield – Administrative Consent Agreement and Enforcement Order (BRWM)
11. ABATEMENT PROFESSIONALS CORP., So. Portland – Administrative Consent Agreement (BRWM)
12. AIR TESTING SERVICES, INC., Kittery – Administrative Consent Agreement (BRWM)
13. NORTHEAST TEST CONSULTANTS, So. Portland – Administrative Consent Agreement (BRWM)
14. A-BEST ABATEMENT, INC., Kittery – Administrative Consent Agreement (BRWM)

III. Regular Agenda

1. 2003 SMALL COMMUNITY GRANT PROGRAM PRIORITY LIST (approval)

The Board voted (8-0-0-2) on a motion to approve the 2003 Small Community Grant Program Priority list as presented. The vote was taken pursuant to 38 M.R.S.A. Chapter 3, Section 411.

Board members Ernest Hilton, Melford Pelletier, Katharine Littlefield, Virginia Plummer, John Tewhey, Jean T. Wilkinson, Richard Wardwell and Irving Faunce voted to support the motion. Board members Nanzy Ziegler and John Marsh were absent at the time of the vote.

Staff member: Richard Green, Bureau of Land and Water Quality.

2. PETERSON DESIGN GROUP PBR #31231 (appeal by Genine Winslow and James McArthur)

The appellants appealed the decision of the Chair to admit additional evidence into the record pursuant to Chapter 2 section 21B of the Department's rules. A motion to overturn the ruling of the Chair regarding the admission of supplemental evidence. failed (3-6-1-0)

Board members Irving Faunce, Katharine Littlefield and John Marsh voted to support the motion. Board members Jean T. Wilkinson, Virginia Plummer, John Tewhey, Richard Wardwell, Ernest Hilton and Melford Pelletier voted opposed. Board member Nancy Ziegler recused.

A motion to deny the appeal of Genine Winslow and James McArthur and affirm the Commissioner's decision to grant the permit by rule. Failed (3-6-1-0). The Board directed Department staff to draft a Board order reversing the Commissioner's approval and denying permit-by-rule #31231 for consideration at the next regular meeting of the Board. The vote was taken pursuant to 38 M.R.S.A. 341-D, 344, 480-A through Z and 06-096 CMR Department rules Chapter 2 and 305.

Board members John Tewhey, Virginia Plummer and Jean T. Wilkinson voted to support the motion. Board members Richard Wardwell, Ernest Hilton, Melford Pelletier, Katharine Littlefield, John Marsh and Irving Faunce voted opposed. Board member Nancy Ziegler recused herself.

Staff member: Mike Mullen, Bureau of Land and Water Quality

3. GTE OPERATIONS SUPPORT INC. AND CONTROL DEVICES, INC., POST CLOSURE HAZARDOUS WASTE FACILITY LICENSE (final approval)

Withdrawn from consideration to allow Department staff to fully address comments received within the comment deadline.

4. WIDEWATERS STILLWATER COMPANY, LLC (ratify decision)

The Board voted (6-2-1-1) on a motion to deny Widewaters' request to withdraw its application. The vote was taken pursuant to 38 M.R.S.A. Section 341-D.

Board members Virginia Plummer, Ernest Hilton, Nancy Ziegler, John Marsh, John Tewhey and Melford Pelletier voted to support the motion. Board members Richard Wardwell and Katharine Littlefield voted opposed. Board member Irving Faunce recused. Board member Jean T. Wilkinson was absent.

The Board voted (5-3-0-2) on a motion to adopt the proposed draft order denying the application of Widewaters Stillwater Company, LLC for a Site Location of Development permit to construct a retail development project in Bangor as presented. The vote was taken pursuant to 38. M.R.S.A. Section 341-D and 481 et. seq. and 06-096 Chapters 2, 30 371-378, and 500.

Board members Ernest Hilton, Nancy Ziegler, John Tewhey, John Marsh, and Virginia Plummer voted to support the motion. Board members Katharine Littlefield, Richard Wardwell and Melford Pelletier voted opposed. Board members Irving Faunce and Jean T. Wilkinson were absent.

Staff member: Stacie Beyer, Bureau of Land and Water Quality.

5. CHINA LAKE WATER LEVEL (discussion of tentative schedule for public hearing process)

The Board voted (4-3-0-3) on a motion to move forward with the proposed schedule as set forth in the memorandum to the Board from Cynthia Bertocci dated May 1, 2003. The vote was taken pursuant to 38 M.R.S.A. Section 341-D.

Board members Katharine Littlefield, Melford Pelletier, Nancy Ziegler and Richard Wardwell voted to support the motion. Board members John Tewhey, Virginia Plummer and Ernest Hilton voted opposed. Board members Irving Faunce, Jean T. Wilkinson and John Marsh were absent.

Staff member: Cynthia S. Bertocci, Board of Environmental Protection